

(i) *Not later than September 1, 2021, the task force shall submit to the governor, the lieutenant governor, the speaker of the house of representatives, and the standing committees of the legislature having jurisdiction over the department a report that summarizes the review conducted under Subsection (g) and the district's actions with regard to obtaining the award of academic credit or industry recognition under Subsection (h). The district shall provide the task force with any information necessary to complete the report.*

(j) *This section expires December 1, 2021.*

SECTION 2. Not later than December 1, 2017, the executive director of the Texas Department of Criminal Justice, the superintendent of the Windham School District, the commissioner of higher education, the executive director of the Texas Workforce Commission, and the governor shall appoint members to the task force established by Section 19.012, Education Code, as added by this Act, in the manner required by Subsection (b) of that section.

SECTION 3. This Act takes effect September 1, 2017.

Passed by the House on May 6, 2017: Yeas 142, Nays 0, 2 present, not voting; the House concurred in Senate amendments to H.B. No. 553 on May 26, 2017: Yeas 142, Nays 0, 2 present, not voting; passed by the Senate, with amendments, on May 24, 2017: Yeas 31, Nays 0.

Approved June 15, 2017.

Effective September 1, 2017.

**EXPUNCTION OF ARREST RECORDS AND FILES FOR
CERTAIN PERSONS AND TO THE RETURN OF CERTAIN
FEES TO A PERSON WHOSE CRIMINAL RECORD HAS BEEN
EXPUNGED; AUTHORIZING A FEE**

CHAPTER 1149

H.B. No. 557

AN ACT

relating to the expunction of arrest records and files for certain persons and to the return of certain fees to a person whose criminal record has been expunged; authorizing a fee.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Article 55.01, Code of Criminal Procedure, is amended by amending Subsection (b) and adding Subsection (b-1) to read as follows:

(b) Except as provided by Subsection (c) *and subject to Subsection (b-1)*, a district court, a justice court, or a municipal court of record may expunge all records and files relating to the arrest of a person ~~[who has been arrested for commission of a felony or misdemeanor]~~ under the procedure established under Article 55.02 if:

(1) the person is:

(A) tried for the offense for which the person was arrested;

(B) convicted of the offense; and

(C) acquitted by the court of criminal appeals or, if the period for granting a petition for discretionary review has expired, by a court of appeals; or

(2) an office of the attorney representing the state authorized by law to prosecute the offense for which the person was arrested recommends the expunction to the ~~[appropriate district]~~ court before the person is tried for the offense, regardless of whether an indictment or information has been presented against the person in relation to the offense.

(b-1) A justice court or a municipal court of record may only expunge records and files under Subsection (b) that relate to the arrest of a person for an offense punishable by fine only.

SECTION 2. Section 1, Article 55.02, Code of Criminal Procedure, is amended to read as follows:

Sec. 1. At the request of the *acquitted person* [defendant] and after notice to the state, or at the request of the attorney for the state with the consent of the acquitted person, the trial court presiding over the case in which the person [defendant] was acquitted, if the trial court is a district court, a justice court, or a municipal court of record, or a district court in the county in which the trial court is located shall enter an order of expunction for a person entitled to expunction under Article 55.01(a)(1)(A) not later than the 30th day after the date of the acquittal. *On* [Upon] acquittal, the trial court shall advise the acquitted person [defendant] of the right to expunction. The party requesting the order of expunction [defendant] shall provide to the [district] court all of the information required in a petition for expunction under Section 2(b). The attorney for the acquitted person [defendant] in the case in which the person [defendant] was acquitted, if the person [defendant] was represented by counsel, or the attorney for the state, if the person [defendant] was not represented by counsel or if the attorney for the state requested the order of expunction, shall prepare the order for the court's signature.

SECTION 3. Section 1a(a), Article 55.02, Code of Criminal Procedure, is amended to read as follows:

(a) The trial court presiding over a case in which a person [defendant] is convicted and subsequently granted relief or pardoned on the basis of actual innocence of the offense of which the person [defendant] was convicted, if the trial court is a district court, a justice court, or a municipal court of record, or a district court in the county in which the trial court is located shall enter an order of expunction for a person entitled to expunction under Article 55.01(a)(1)(B)(ii) not later than the 30th day after the date the court receives notice of the pardon or other grant of relief. The person shall provide to the [district] court all of the information required in a petition for expunction under Section 2(b).

SECTION 4. Section 2, Article 55.02, Code of Criminal Procedure, is amended by amending Subsections (a) and (b) and adding Subsection (a-1) to read as follows:

(a) A person who is entitled to expunction of records and files under Article 55.01(a)(1)(A), 55.01(a)(1)(B)(i), or 55.01(a)(2) or a person who is eligible for expunction of records and files under Article 55.01(b) may file an ex parte petition for expunction in a district court for the county in which:

- (1) the petitioner was arrested; or
- (2) the offense was alleged to have occurred.

(a-1) If the arrest for which expunction is sought is for an offense punishable by fine only, a person who is entitled to expunction of records and files under Article 55.01(a) or a person who is eligible for expunction of records and files under Article 55.01(b) may file an ex parte petition for expunction in a justice court or a municipal court of record in the county in which:

- (1) the petitioner was arrested; or*
- (2) the offense was alleged to have occurred.*

(b) A [The] petition filed under Subsection (a) or (a-1) must be verified and must include the following or an explanation for why one or more of the following is not included:

- (1) the petitioner's:
 - (A) full name;
 - (B) sex;
 - (C) race;
 - (D) date of birth;

- (E) driver's license number;
- (F) social security number; and
- (G) address at the time of the arrest;
- (2) the offense charged against the petitioner;
- (3) the date the offense charged against the petitioner was alleged to have been committed;
- (4) the date the petitioner was arrested;
- (5) the name of the county where the petitioner was arrested and if the arrest occurred in a municipality, the name of the municipality;
- (6) the name of the agency that arrested the petitioner;
- (7) the case number and court of offense; and
- (8) together with the applicable physical or e-mail addresses, a list of all:
 - (A) law enforcement agencies, jails or other detention facilities, magistrates, courts, prosecuting attorneys, correctional facilities, central state depositories of criminal records, and other officials or agencies or other entities of this state or of any political subdivision of this state;
 - (B) central federal depositories of criminal records that the petitioner has reason to believe have records or files that are subject to expunction; and
 - (C) private entities that compile and disseminate for compensation criminal history record information that the petitioner has reason to believe have information related to records or files that are subject to expunction.

SECTION 5. Article 102.006, Code of Criminal Procedure, is amended to read as follows:

Art. 102.006. FEES IN EXPUNCTION PROCEEDINGS. (a) In addition to any other fees required by other law and except as provided by Subsection (b), a petitioner seeking expunction of a criminal record *in a district court* shall pay the following fees:

- (1) the fee charged for filing an *ex parte* petition in a civil action in district court;
- (2) \$1 plus postage for each certified mailing of notice of the hearing date; and
- (3) \$2 plus postage for each certified mailing of certified copies of an order of expunction.

(a-1) In addition to any other fees required by other law and except as provided by Subsection (b), a petitioner seeking expunction of a criminal record in a justice court or a municipal court of record under Chapter 55 shall pay a fee of \$100 for filing an ex parte petition for expunction to defray the cost of notifying state agencies of orders of expunction under that chapter.

(b) The fees under Subsection (a) *or the fee under Subsection (a-1), as applicable,* shall be waived if:

- (1) the petitioner seeks expunction of a criminal record that relates to an arrest for an offense of which the person was acquitted, other than an acquittal for an offense described by Article 55.01(c); and

- (2) the petition for expunction is filed not later than the 30th day after the date of the acquittal.

(c) A court that grants a petition for expunction of a criminal record may order that any fee, or portion of a fee, required to be paid under Subsection (a) be returned to the petitioner.

SECTION 6. Section 27.031, Government Code, is amended by adding Subsection (e) to read as follows:

(e) A justice court has concurrent jurisdiction with a district court and a municipal court of record over expunction proceedings relating to the arrest of a person for an offense punishable by fine only.

SECTION 7. Section 30.00005, Government Code, is amended by adding Subsection (e) to read as follows:

(e) *The court has concurrent jurisdiction with a district court and a justice court over expunction proceedings relating to the arrest of a person for an offense punishable by fine only.*

SECTION 8. Subchapter B, Chapter 103, Government Code, is amended by adding Section 103.02101 to read as follows:

Sec. 103.02101. ADDITIONAL FEE IN CERTAIN EXPUNCTION CASES: CODE OF CRIMINAL PROCEDURE. A petitioner filing an ex parte petition for expunction in a justice court or a municipal court of record shall pay a fee under Article 102.006, Code of Criminal Procedure, of \$100 to defray the costs of notifying state agencies of orders of expunction.

SECTION 9. Section 202.001(b), Local Government Code, is amended to read as follows:

(b) The following records may be destroyed without meeting the conditions of Subsection (a):

(1) records the destruction or obliteration of which is directed by an expunction order issued by a [district] court pursuant to state law; and

(2) records defined as exempt from scheduling or filing requirements by rules adopted by the commission or listed as exempt in a records retention schedule issued by the commission.

SECTION 10. (a) Except as otherwise provided by this section, this Act applies to an expunction of records and files relating to any criminal offense that occurred before, on, or after the effective date of this Act.

(b) Section 1, Article 55.02, Code of Criminal Procedure, as amended by this Act, applies only to the expunction of arrest records and files related to a criminal offense for which the trial of the offense begins on or after the effective date of this Act. The expunction of arrest records and files under Section 1, Article 55.02, Code of Criminal Procedure, related to a criminal offense for which the trial of the offense begins before the effective date of this Act is governed by the law in effect on the date the trial begins, and the former law is continued in effect for that purpose.

(c) Article 102.006(c), Code of Criminal Procedure, as added by this Act, applies only to a petition for expunction filed on or after the effective date of this Act. A petition for expunction filed before the effective date of this Act is governed by the law in effect on the date the petition was filed, and the former law is continued in effect for that purpose.

SECTION 11. This Act takes effect September 1, 2017.

Passed by the House on May 5, 2017: Yeas 147, Nays 0, 1 present, not voting; that the House refused to concur in Senate amendments to H.B. No. 557 on May 26, 2017, and requested the appointment of a conference committee to consider the differences between the two houses; the House adopted the conference committee report on H.B. No. 557 on May 28, 2017: Yeas 139, Nays 8, 2 present, not voting; passed by the Senate, with amendments, on May 24, 2017: Yeas 31, Nays 0; at the request of the House, the Senate appointed a conference committee to consider the differences between the two houses; the Senate adopted the conference committee report on H.B. No. 557 on May 28, 2017: Yeas 31, Nays 0.

Approved June 15, 2017.

Effective September 1, 2017.